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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91206026
Party	Defendant Shurjoint Piping Products, Inc.
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Date	03/05/2013
Attachments	suppl response to board order.pdf (3 pages)(560208 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Victaulic Company of America,

Opposer,

v.

Shurjoint Piping Products, Inc.

Applicant.

Opposition No.: 91206026
Serial No.: 85/502,864

Docket No. 091832.000200

RESPONSE TO BOARD ORDER AND SUPPLEMENT TO SAME

In response to the Board's order of March 4, 2013, undersigned counsel is available for a call March 11-15, 2013 between 2 PM and 5PM. Applicant further invites the Board's attention to the following relevant time-line:

- October 16, 2012 - Applicant's discovery was served and motion for judgment on the pleadings was filed.
- November 7, 2012 – A Board Order issued (prompted by Mr. Sugar's first ex parte communication with the Board), directing the parties not to engage in *any activities* with respect to discovery.
- January 3, 2013 – While the proceeding was suspended, and the parties were under Order from the Board not to engage in any activities with respect to discovery, Opposer served its discovery.
- February 1, 2013 – The Board removed the proceeding from suspension, setting response to discovery dates for thirty (30) days out.

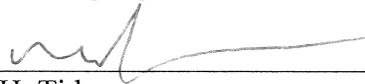
If the position advocated by Mr. Sugar is adopted, discovery responses for **both** parties was due the same day, namely **March 4, 2013**, despite that Applicant served discovery two and one-half months earlier than Opposer. And this result will be justified by the fact that Opposer served discovery while under Order from the Board to refrain from so doing. As it is, because Applicant granted Opposer an extension of time to respond to discovery until March 15, 2013, a mere thirty days narrows the gap from two and one-half months to about fifteen days.

The Board Order was clear and in line with the analogous rule regarding suspension pending a motion to compel. See 37 C.F.R. 2.120(e)(2) (“[a]fter the motion is filed and served, no party should file any paper that is not germane to the motion, except as otherwise specified in the Board’s suspension order. **Nor may any party serve any additional discovery until the period of suspension is lifted or expires by or under order of the Board**”) (emphasis added). Further, as the Board should have reset dates placing the parties in the same position, Applicant’s request is imminently reasonable. See Trademark Trial & App. Board Prac. & Proc. § 3:31 (“[i]f, upon disposition of the motion, the case is not disposed of and will go forward (i.e., the motion is denied), the Board will resume proceedings and issue an order at the time it decides the motion that will place the parties in the position they were in at the time the motion was filed”).

Respectfully submitted,

Shurjoint Piping Products, Inc.

Date March 5, 2013

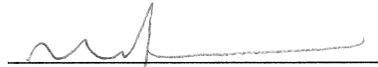
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true copy of the foregoing **RESPONSE TO BOARD ORDER AND SUPPLEMENT TO SAME** was served by first-class mail, postage pre-paid on this 5th day of March, 2013 to Petitioner's counsel at the following address:

Bryan P. Sugar
Ungaretti & Harris
70 West Madison Street
3500 Three First National Plaza
Chicago, IL 60602-4224

By:



Mark H. Tidman